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Sent: 5/31/2012 10:00:37 AM

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Outlet Full Name: Washington Post - Online

News Text: WASHINGTON — In the three years since President Barack Obama took office, Republicans have made the Environmental Protection Agency a lightning rod for complaints that his administration has been too tough on oil and gas producers.

But an Associated Press analysis of enforcement data over the past decade finds that's not the case. In fact, the EPA went after producers more often in the years of Republican President George W. Bush, a former Texas oilman, than under Obama.

Also, the agency's enforcement actions have declined overall since 2002 and reached their lowest point last year, the review found.

Accusations of EPA overzealousness peaked in April. That's when a regional administrator resigned after a two-year-old video surfaced in which he compared enforcement of oil and gas regulations with how the Romans used to conquer villages, by finding "the first five guys they saw and they'd crucify them."

GOP critics publicized the video of Al Armendariz, who headed the region that includes Texas and other major oil- and gas-producing states, as an example of what was wrong with an agency that Republican presidential contender Mitt Romney calls "completely out of control."

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Romney has expressed distaste for the EPA's tactics. The agency, he said late last year, "is a tool in the hands of the president to crush the private enterprise system, to crush our ability to — to have energy, whether it's oil, gas, coal, nuclear."

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That trend extends to the rest of the country, where the number of enforcement actions against oil and gas producers dropped by 61 percent over the past decade, from 224 in 2002 to 87 last year. The decline came despite an increase in the number of producing wells and despite the EPA's listing of energy extraction as an enforcement priority under Obama. So far this year, the administration has filed 51 formal enforcement cases against energy producers.

While there has been an uptick in the average fine against companies producing oil and gas since 2007, when the penalty reached a low in the decade evaluated by the AP, the average is still lower than during some years under Bush, who was viewed as sympathetic to the oil and gas industry. The year 2011 was an exception; the average soared due to a \$20.5 million fine against a BP subsidiary in Alaska. That was the largest penalty against an oil and gas producer under Obama, but it was for a pipeline spill that happened five years earlier.

States usually take the lead on oil and gas enforcement, and federal regulations make clear that is preferred. The EPA's role is mostly limited to ensuring that state rules are in line with federal regulations designed to protect drinking water, waterways and the air.

EPA officials said the lower enforcement numbers reflect a strategy that focuses on the violations that pose the most significant risks to human health and the environment. Many of those occur not at well sites, but at other points in the oil and gas process, such as collection sites and refineries.

Personal Post

The agency, struggling with constant budget cuts in recent years, also doesn't have the manpower to police all the wells nationwide. The states often have more inspectors on the ground than the feds.

In Texas, for example, the Texas Commission on Environmental Quality has 500 inspectors, all of whom do some work with the state's nearly 400,000 oil and gas wells. The Texas Railroad Commission, the agency that oversees drilling, has 153 inspectors. The EPA in all of Region 6 has two oil and gas inspectors.

EPA critics say the problem is bigger than enforcement. They point to regulations that they say hamper oil and gas production and raise refining costs, while giving an advantage to renewable fuels.

"It is this whole mentality that this administration continues to have as they try to pick winners and losers in the marketplace, as they force consumers off oil and gas," said Charles Drevna, president of the American Fuel and Petrochemical Manufacturers, a trade group that represents the refineries and chemical plants that process oil and natural gas.

In articles, Drevna has written that "resignation or not, Obama and the EPA are determined to pursue policies that Armendariz so accurately described."

Critics also say that the data only tell part of the story, since it doesn't include violation notices or emergency orders — such as the one that Armendariz issued in 2010 to Range Resources to stop

contaminating a drinking water well and to supply residents with clean water within 48 hours. The order was later withdrawn after a state court ruled that the evidence linking the company's hydraulic fracturing to the well's contamination had been falsified.

Oil, gas stats belie talk of tough EPA enforcement (Anchorage Daily News)

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ENFORCEMENT: EPA's Dimock results cloud Pa.'s pollution case

(EnergyWire)

Outlet Full Name: EnergyWire

News Text: Dimock, Pa., has gone from being seen as the town destroyed by drilling to being known as the place where Cabot Oil and Gas Corp. got "crucified."

Dimock played a starring role in the Oscar-nominated anti-drilling documentary "Gasland" as the prime example of gas production gone bad. But after a high-profile round of testing by U.S. EPA, the drilling industry is touting the headlines that call Dimock's water "safe."

Those headlines, though, ignore the reality that Cabot did pollute the water in Dimock, at least according to the Pennsylvania Department of Environmental Protection. Cabot says it didn't.

DEP still hasn't cleared Cabot to drill in the affected portion of Dimock Township. Three years ago, the agency shut down some of Cabot's wells, fined the company and eventually negotiated a \$4.1 million settlement in which all the affected homeowners got at least two times the value of their home and kept any mineral rights.

John Hanger, who shut down Cabot's drilling back then and levied those fines in the previous administration as head of DEP, understands the confusion but finds it unfortunate.

"I'd say the exaggeration has boomeranged, because some could come to the conclusion that there was

nothing wrong in Dimock, and that's not the case," Hanger said in an interview with EnergyWire. "The truth here was never what the gas companies or the activists were saying."

The confusion comes as EPA has beaten a retreat on two other drilling enforcement cases, including one where industry allies were able to cast EPA as out to crucify oil and gas companies.

Days after EPA released its final round of results for Dimock, Dallas-based Regional Administrator Al Armendariz resigned because of a 2-year-old video newly circulated by Sen. James Inhofe (R-Okla.) (Greenwire, April 30). Armendariz was recorded at a town hall meeting talking with people worried about contamination from drilling. He compared his strategy of making examples of violators to Roman conquerors' strategy to "crucify" random villagers.

The video took on added significance after EPA dropped the case Armendariz had pressed against Range Resources Corp., alleging contamination similar to what state officials smacked Cabot for in Pennsylvania.

Though a close reading of Armendariz's comments shows that his incendiary "crucify" remark applied to "people who are not compliant with the law," it played on cable news and other media as EPA trying to indiscriminately nail oil and gas companies.

In the second case, EPA agreed to collaborate with state agencies on further testing of water in Pavillion, Wyo., where preliminary results indicated groundwater -- but not drinking water -- had been contaminated by hydraulic fracturing.

No fracking fluid pollution

Pennsylvania DEP did back off from a demand that Cabot build a new water pipeline to the homes affected in Dimock. But it hasn't backed off its contention that Cabot's drilling polluted the drinking water in a portion of Dimock with stray natural gas.

What the recent EPA tests show, however, is that the water was not polluted by hydraulic fracturing fluid. Some of the residents have blamed the contamination on fracturing, and that's what many drilling opponents have staked their complaints on.

To do that, the pressure involved in injecting the frack fluid underground to release gas would have had to push the fluid upward through numerous layers of rock for about a mile.

"The general sense that fracking is poisoning the water is wrong," Hanger said. "The general sense that there's nothing wrong is also wrong."

Cabot, though, says methane in the water wells was naturally occurring and not caused by the company's drilling. The company participated in a study that found natural gas to be "ubiquitous" in the region's well water.

Cabot spokesman George Stark does agree that in the fierce Dimock debate, the issue of methane migration has gotten confused with the idea of fracturing fluid somehow getting into drinking water.

"It morphed from methane into testing for everything else," Stark said. "There's not anything that's not naturally occurring in that water."

Hanger says he doesn't fault EPA for going into Dimock. More testing can't hurt, he said. And he said the EPA officials who made the decision were under intense political pressure from environmental activists, including a protest outside EPA's regional headquarters in Philadelphia.

"There's a long list of people who have played games with the Dimock situation," Hanger said. "Methane migration was a finding that, at different times, neither side wanted to hear."

Illinois AG sues over refinery's alleged pollution (Anchorage Daily News)

Outlet Full Name: Anchorage Daily News - Online

News Text: EDWARDSVILLE, Ill. (AP) - The state of Illinois is suing current and past owners of a southwestern Illinois refinery for allegedly polluting nearby groundwater.

The St. Louis Post-Dispatch () reports that Illinois Attorney General Lisa Madigan filed the lawsuit in Madison County over the Wood River Refinery on claims that oil, gasoline and other toxins were allowed to spread beyond the plant's property.

Madigan names as defendants the refinery's current owner, WRB Refining LP, and its predecessors ConocoPhillips and Shell Oil.

The village of Roxana filed a similar lawsuit in March.

The companies say they've been working with the Illinois Environmental Protection Agency to address the matter.

Information from: St. Louis Post-Dispatch, <http://www.stltoday.com>

Oil statistics belie tough EPA enforcement talk (Austin American-Statesman)

Outlet Full Name: Austin American-Statesman - Online

News Text: WASHINGTON — In the three years since President Barack Obama took office, Republicans have made the Environmental Protection Agency a lightning rod for complaints that his administration has been too tough on oil and gas producers.

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The EPA, struggling with constant budget cuts in recent years, also doesn't have the staff to police all the wells nationwide. The states often have more inspectors.

In Texas, for example, the Texas Commission on Environmental Quality has 500 inspectors, all of whom do some work with the state's nearly 400,000 oil and gas wells. The Texas Railroad Commission, the agency that oversees drilling, has 153 inspectors. The EPA in all of Region 6 has two oil and gas inspectors.

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Stats defy enforcement complaints (San Antonio Express-News)

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Texas pipeline operators to pay for spills (UPI)

Outlet Full Name: UPI.com

News Text: WASHINGTON, May 30 (UPI) -- Two Texas pipeline companies agreed to pay more than \$1 million to the U.S. government to settle claims from three natural gas pipeline spills, the EPA said.

The Environmental Protection Agency announced Mid-American Pipeline Co. and Enterprise Products Operating LLC agreed to pay the civil penalty to settle violations of the Clean Water Act.

Both companies own and operate the 2,769-mile West Red pipeline, which transports gasoline products between Kansas and Minnesota. Ruptures in 2007, 2010 and 2011 spilled more than 4,200 barrels of natural gasoline into regional waterways, including the Missouri River.

The civil penalty fine was \$1.042 million. Both companies also agreed to spend \$200,000 to take action, including the relocation of some pipeline segments, that would prevent future spills.

"This settlement requires proactive vigilance to ensure that our soil and waterways are protected from contaminants," U.S. Attorney for the District of Nebraska Deborah Gilg said in a statement.

More than 20,000 miles of petroleum product pipelines cross Iowa, Kansas, Missouri and Nebraska.

Two Houston Companies Will Pay \$1 Million for Natural Gas Pipeline Spills (Environmental Protection)

Outlet Full Name: Environmental Protection

News Text: Mid-America Pipeline Company, LLC (MAPCO), and Enterprise Products Operating LLC (Enterprise), of Houston, have agreed to pay a civil penalty of more than \$1 million to the United States to settle violations of the federal Clean Water Act related to three natural gasoline pipeline spills in Iowa, Kansas and Nebraska.

As part of a consent decree lodged today in U.S. District Court in Omaha, Neb., and in addition to paying the \$1,042,000 civil penalty, the companies have agreed to undertake various measures aimed at reducing external threats to their pipeline, enhance their reporting of spills, and spend at least \$200,000 to identify and prevent external threats to the pipeline involved in the spills.

MAPCO owns and Enterprise operates the 2,769-mile West Red Pipeline, which transports mixed natural gasoline products between Conway, Kan., and Pine Bend, Minn. The settlement resolves Clean Water Act violations related to three spills that occurred along the pipeline:

A March 29, 2007, rupture near Yutan, Neb., which caused the discharge of approximately 1,669 barrels of natural gasoline directly into an unnamed ditch and Otoe Creek.

An April 23, 2010, rupture near Niles, Kan., which caused the discharge of approximately 1,760 barrels of natural gasoline directly into an unnamed ditch, Cole Creek, Buckeye Creek and the Solomon River.

An August 13, 2011, rupture near Onawa, Iowa, which caused the discharge of approximately 818 barrels of natural gasoline directly into the Missouri River.

"More than 20,000 miles of pipeline, carrying oil and petroleum products, cross the states of Iowa, Kansas, Missouri and Nebraska in EPA's Region 7," EPA Regional Administrator Karl Brooks said. "A frequent cause of pipeline breaks is the action of third parties during farming and excavation. This settlement requires the defendants to honor a schedule of pipeline inspections on the ground and from the air, and reach out to local agencies, contractors and excavators to make sure they are more fully aware of pipeline locations and depths."

"This settlement requires proactive vigilance to ensure that our soil and waterways are protected from contaminants," said Deborah R. Gilg, U.S. Attorney for the District of Nebraska. "The agreement will result in safer pipeline operations and that will be good for Nebraska's environment."

In addition to the proactive inspections and outreach efforts, the settlement also requires MAPCO and Enterprise to spend \$200,000 to relocate, cover, lower or replace pipeline segments; install new remote shutoff valves; install new physical protections such as fences or concrete barriers; and install other new equipment, structures or systems to prevent spills from reaching navigable waters.

The consent decree is subject to a 30-day public comment period and court approval.

WATER POLLUTION: Ill. sues refinery owners over alleged contamination (Greenwire)

Outlet Full Name: Greenwire

News Text: Illinois' attorney general is suing the present and past owners of a refinery near Roxana, Ill., on concerns that the facility contaminated nearby groundwater with oil, gasoline and other hazardous wastes.

"This lawsuit seeks a complete assessment and a plan to restore the quality of the groundwater and

subsurface to pre-contamination conditions and to protect the people living in Roxana," Attorney General Lisa Madigan (D) said of the Wood River refinery.

A spokesman for Phillips 66, which operates the refinery with Cenovus Energy Inc. under a joint venture called WRB Refining LP, said the lawsuit seemed to target the cleanup efforts of previous owner Royal Dutch Shell PLC.

But Madigan said both current and past owners would be held responsible. Companies in the suit could face civil penalties of \$50,000 per violation -- plus \$10,000 for each day the violation occurred, according to Madigan.

Shell would not comment on the suit. But a spokeswoman for the company said it was working with the Illinois EPA and other health agencies to evaluate possible contamination at the site (Erwin Seba, Reuters, May 29). -- WW

Nebraska Lawmakers Query EPA About Aerial Surveillance of Feedlots (Daily Environment Report, 05-31-12)

By Anthony Adragna

Members of the Nebraska congressional delegation are seeking an explanation from the Environmental Protection Agency about a series of aerial surveillance inspections of hundreds of livestock operations.

The lawmakers in a May 29 letter to Administrator Lisa Jackson said constituents were concerned about their privacy and asked EPA to explain its statutory authority to conduct the inspections by aircraft.

EPA has told industry groups it was using aerial inspections to detect Clean Water Act violations at livestock operations and that the screenings conserved financial resources.

The letter from Sens. Ben Nelson (D) and Mike Johanns (R), and Reps. Jeff Fortenberry (R), Adrian Smith (R), and Lee Terry (R), asks 23 questions about the surveillance inspections and requests a response from the agency by June 10.

"Farmers and ranchers in Nebraska pride themselves on the stewardship of our state's natural resources," the lawmakers said. "They understand what it means to be regulated entities and the importance of compliance with federal regulations. Thus, we look forward to better understanding EPA's use of aerial surveillance inspections."

Little Known About Program

EPA has said little about the scope and nature of the program until recently. The agency held a public meeting March 13 in Nebraska that discussed aerial surveillance, but minutes were not kept, according to an EPA Region 7 official who attended the meeting.

The official said the regional office had not seen the letter. EPA headquarters was not available for comment.

Two industry groups, Nebraska Cattlemen and the American Farm Bureau Federation, told BNA that EPA claimed statutory authority under the Clean Water Act to conduct the aerial surveillance but declined to name a specific provision.

Aerial surveillance has been conducted on hundreds of beef, dairy, swine, and poultry operations, according to Nebraska Cattlemen.

The groups said the agency has confirmed surveillance flights in Nebraska and Iowa, but Don Parrish, senior director of regulatory relations for the Farm Bureau, said the flights might occur "just about anywhere." The senators and representatives suggested in their letter that the surveillance dates back to 2010 and potentially further than that.

Aerial Surveillance Flights Unannounced

According to EPA's guide for concentrated animal feedlot operation (CAFO) inspections, regulators have the option of notifying farmers before conducting an on-site inspection. In contrast, both industry

groups say the aerial surveillance flights are unannounced.

Kristen Hassebrook, director of natural resources and environmental affairs with Nebraska Cattlemen, said farmers often are not informed their properties have been photographed.

Concerns over the legality of aerial surveillance were raised in a 1986 U.S. Supreme Court case involving the Clean Air Act. The court ruled EPA did not violate Dow Chemical Corp.'s reasonable "expectation of privacy" by conducting aerial surveillance of a plant (Dow Chemical Co. v. United States,, 24 ERC 1385, 476 U.S. 227 (1986)).

Farmers Dislike 'Gotcha Mentality.'

Parrish said farmers consistently work to protect the environment, but EPA's "gotcha mentality" has fractured the relationship between both groups.

"If a farmer understood EPA was out there to help them with compliance, they would be more cooperative because we could use compliance assistance," he told BNA. "EPA has a lot of tools in the toolbox, and they don't use any of them. [Farmers] feel like EPA is out there trying to put them out of business."

Hassebrook said the inspections had revealed few violations and said state agencies worked closely with producers to ensure compliance.

"[State agencies] focus is cooperative and helping producers get in compliance and stay in compliance rather than secretly spy on producers," she told BNA. "Aerial, secret inspections are not how we do things in Nebraska. We do not know the cost of these flights, but they are an additional budgetary item and certainly have not saved any taxpayer dollars."

For More Information

The Nebraska coalition's letter is available at <http://bit.ly/L3efOP>.